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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,389	06/02/2000	Takeki Yazaki	NIT-200	5623

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EXAMINER
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QURESHI, SHABANA

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/585,389

Applicant(s)

YAZAKI ET AL.

Examiner

Shabana Qureshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 1 –13 are pending in this Office Action.

#### *Information Disclosure Statement*

2. The reference cited in the information disclosure statement (IDS, Paper Number 2) has been considered by the examiner.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 5,812,525 issued to Teraslinna .

With regards to claims 1 and 6, Teraslinna teaches a bandwidth monitoring method suitable for use in a network for transmitting specific type of packets in preference to packets other than the specific type of packets, comprising the steps of:

- when a packet flows into the network, monitoring whether the packet violates a contract bandwidth being under contract with a source of the packet (column 2, lines 48-52);
- judging whether the packet corresponds to the specific type of packet (column 2, lines 58-64); and

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- when the packet does not violate the contract bandwidth and does not belong to the specific type of packet, transmitting the packet as the specific type of packet (column 6, lines 28-39).

As per claim 2, Teraslinna teaches the bandwidth monitoring method according to claim 1, wherein the packet has a header, and the judging as to whether the packet corresponds to the specific type of packet is performed according to a value in the header (column 4, line 44-column 5, line 7).

As per claim 3, Teraslinna teaches the bandwidth monitoring method according to claim 2, further comprising the step of:

when the value in the header does not correspond to a specific value indicative of the specific type of packet, changing the value in the header to a specific value (column 5, lines 8-39).

As per claim 4, Teraslinna teaches the bandwidth monitoring method according 2, wherein the header has a priority field and the judging as to whether the packets correspond to the specific type of packet is performed according to the value in the priority field (column 4, lines 44-54).

As per claims 5 and 9, Teraslinna teaches the bandwidth monitoring method according to claim 1, wherein the monitoring is carried out by using a leaky bucket algorithm with a first depth of bucket when the packet is not the specific type of packet, and a leaky bucket algorithm with a second depth of bucket different from the first depth when the packet corresponds to the specific type of packet, thereby to judge whether or not the packet violates the contract bandwidth being under contract with the source of the packet (column 16, lines 1-47).

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As per claim 7, Teraslinna teaches the bandwidth monitoring method according to claim 6, further comprising the step of:

- transmitting the packet as a packet other than the specific type of packet when the bandwidth being used by the source of the packet exceeds the first bandwidth and the packet does not correspond to the specific type of packet (column 6, lines 28-39).

As per claim 8, Teraslinna teaches the bandwidth monitoring method according to claim 6, further comprising the step of:

- transmitting the packet as a packet other than the specific type of packet when the bandwidth being used by the source of the packet exceeds the contract bandwidth and the packet corresponds to the specific type of packet (column 6, lines 28-39).

As per claim 10, Teraslinna teaches a bandwidth monitoring device for monitoring a bandwidth of packets which flow into a network, comprising:

- flow detecting means for detecting a flow of a series of packets based on at least one of a address information, use identification information and a network priority of an input packet, the network priority identifying the priority of the input packet within the network, and for determining a flow identifier indicative of an identifier of a flow to which the input packet belongs and a flow priority indicative of the priority of the input packet within the flow (columns 15-16);

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- a bandwidth check table including at least one entry comprising bandwidth monitoring control information indicative of control information for bandwidth monitoring and a plurality of the network priorities (columns 15-16);
- bandwidth check table control means for reading out an entry corresponding to the flow identifier from the bandwidth check table (columns 15-16);
- check result decision means for performing a decision as to the conformance or violation of the bandwidth for the input packet, based on the flow priority, bandwidth monitoring control information within the entry read out by the bandwidth check table control means, and a value of a timer for indicating the present time (columns 15-16); and
- priority decision means for determining a network priority of the input packet from the result of decision by the check result deciding means and a plurality of network priorities read out by the bandwidth monitoring table control means (columns 15-16).

As per claim 11, Teraslinna teach the bandwidth monitoring device according to claim 10, wherein

- the check result decision means uses a leaky bucket algorithm having a plurality of bucket's depths as a bandwidth monitoring algorithm (column 16, lines 1-38), and
- the entry of the bandwidth check table indicates a depth of bucket for the priority packets and a depth of bucket for packets other than the priority packet (column 16, lines 1-47).

As per claim 12, Teraslinna teach a bandwidth monitoring device for monitoring a bandwidth of packets flow into a network, comprising:

- connection priority decision means for determining a connection priority indicative of the priority of an input packet within a connection based on connection information of the input packet (column 9, lines 15-40);
- a bandwidth check table having at least one entry comprising bandwidth monitoring control information indicative of control information for bandwidth monitoring and network priorities corresponding to information for identifying a plurality of priorities in the network (column 7, lines 23-26);
- bandwidth check table control means for reading out an entry corresponding to an identifier of the connection from the bandwidth check table;
- check result decision means for performing a decision as to the conformance or violation of the bandwidth for the input packet, based on the connection priority, bandwidth monitoring control information within the entry read out by the bandwidth check table control means, and a value of a timer for indicating the present time(columns 15-16);; and
- priority decision means for determining a network priority of the input packet from the result of decision by the check result decision means and a plurality of network priorities read out by the bandwidth monitoring table control means (columns 15-16);.

As per claim 13, the bandwidth monitoring device according to claim 12, wherein

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- the check result decision means uses a leaky bucket algorithm having a plurality of bucket's depths as a bandwidth monitoring algorithm (column 16, lines 1-47), and
- the entry of the bandwidth check table indicates a depth of bucket for the priority packets and a depth of bucket for packets other than the priority packet(column 16, lines 1-47).

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (703) 308-6118. The examiner can normally be reached on Monday - Friday, 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Shabana Qureshi  
Examiner  
Art Unit 2155

01 October, 2003



**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**